

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CAROL PHILLIPS,

Plaintiff,

Case No: 1:07-cv-675

v

HON. JANET T. NEFF

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

JUDGMENT

Plaintiff filed a claim for supplemental security income, identifying her disabling conditions as mental illness, allergies, asthma, and dermatology problems. The Commissioner of the Social Security Administration denied her claim, and Plaintiff seeks judicial review of the decision. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation, recommending that this Court affirm the Commissioner's decision. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Judgment pursuant to FED. R. CIV. P. 58.

Plaintiff argues that this Court should reject the Magistrate Judge's recommendation to affirm the Commissioner's final decision. Plaintiff articulates that the Commissioner's decision is inappropriate because the Administrative Law Judge found her "allegations regarding her limitations [] not totally credible" without explaining the rationale behind this decision.

The Magistrate Judge correctly upheld the ALJ's decision. The ALJ "is not required to accept a claimant's subjective complaints and may properly consider the credibility of a claimant when making a determination of disability." *Jones v. Comm'r of Soc. Sec.*, 336 F.3d 469, 476 (6th Cir. 2003). Because the ALJ was present when the Plaintiff testified on her behalf, his determinations are given "great weight and deference." *Id.* The ALJ's explanations for finding Plaintiff's testimony "not totally credible" are supported by substantial evidence. "[T]he Commissioner's decision cannot be overturned if substantial evidence, or even a preponderance of the evidence, supports the claimant's position, so long as substantial evidence also supports the conclusion reached by the ALJ." *Id.* at 477.

The ALJ properly considered the opinions of psychiatrist Christine Olson, M.D., and the mental RFC assessment by DDS psychiatrist, Thomas Tsai, M.D. and identified jobs that accommodated the physicians' recommended restrictions. The ALJ also examined Plaintiff's daily activities when determining whether Plaintiff is disabled. In particular, the ALJ found that Plaintiff's daily activities are not limited to the degree expected based upon her claimed disabling symptoms and limitations.

In sum, the Magistrate Judge correctly recommended that the Commissioner's decision be affirmed.

THEREFORE, IT IS ORDERED that the objections (Dkt 20) are DENIED, the Report and Recommendation of the Magistrate Judge (Dkt 19) is APPROVED and ADOPTED as the opinion of the Court, and the decision of the Commissioner of Social Security is hereby AFFIRMED.

Dated: September 24, 2008

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge